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09/770,067	01/24/2001	Terry R. Weissman	TEL-020	7198

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TELLME  
C/O BEVER, HOFFMAN & HARMS, LLP  
2099 GATEWAY PLACE, SUITE 320  
SAN JOSE, CA 95110-1017

EXAMINER

PHAN, JOSEPH T

ART UNIT	PAPER NUMBER
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2645

DATE MAILED: 02/02/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

*Rebecca Baumann*



## Office Action Summary

Application No.

09/770,067

Applicant(s)

WEISSMAN, TERRY R.

Examiner

Joseph T Phan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 January 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.  
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_



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## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 1 rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, line 2-3 recites the phrase "...communication comprised of a queue comprised of recorded audio segments, the method comprising for each telephone interface..." The grammar, use of tense(comprised/comprising), and sentence structure of this phrase in the preamble makes it unclear and confusing. It is not known if the communication comprises of recorded audio segments and/or the queue. And which of the two methods in the preamble the limitations of lines 5-12 and dependent claims are referring to. Appropriate clarification or correction is required.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.



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**3. Claims 1-18 rejected under 35 U.S.C. 102(b) as being anticipated by Logan et al., Patent #5,721,827.**

Regarding claim 1, Logan teaches a method of serializing an asynchronous communication over a plurality of telephone interfaces using a computer system, wherein the asynchronous communication comprised of a queue comprised of recorded audio segments, the method comprising for each telephone interface in the plurality of telephone interfaces(col.6 lines 10-26 and col.10 lines 6-67):

playing recorded audio segments in the queue in a predetermined order using the computer system, maintaining a current position in the queue responsive to the playing using the computer system(235 Fig.3 and col.11 lines 3-25), supporting receipt of a request to record an audio segment for inclusion in the asynchronous communication using the computer system, and responsive to the request recording the audio segment, adding the audio segment to the queue, and resuming the playing at the current position(235, 267, and 285 Fig.3 and col.12 lines 16-54).

Regarding claim 2, Logan teaches the method of claim 1, wherein the playing comprises selecting a place in the queue as the current position and beginning playback of the corresponding recorded audio segment and automatically advancing to next recorded audio segment in the queue when one is available (col.11 lines 3-col.12 line 67 and col.14 lines 42-52).

Regarding claim 3, Logan teaches the method of claim 1, wherein the playing comprises playing holding sounds when the current position



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corresponding to end of the queue and automatically resuming playback when additional recorded audio segments added to the queue (col.10 line 51-col.12 line 67).

Regarding claim 4, Logan teaches the method of claim 1, wherein the playing comprises receiving requests to alter the playback, the requests corresponding to one or more of change the current position to previous audio segment in the queue, change the current position to next audio segment in the queue, skip ahead in audio segment, skip back in audio segment, and speed up playback of audio segment, slow down playback of audio segment (col.11 lines 3-col.12 line 67).

Regarding claim 5, Logan teaches the method of claim 4, wherein the requests comprise one or more of spoken audio commands and dual-tone multi-frequency (DTMF) signals (col.11 lines 3-col.12 line 67).

Regarding claim 6, Logan teaches the method of claim 1, wherein the recording the audio segment can be selectively deactivated such that after deactivation the asynchronous communication can be played back, but additional recorded audio segments cannot be added to the queue (col.11 lines 3-col.12 line 67).

Regarding claim 7, Logan teaches the method of claim 1, wherein the plurality of telephone interfaces coupled in communication with between one and five thousand human participants (Fig.1 Fig.4, and col.18 lines 10-46).

Regarding claim 8, Logan teaches the method of claim 1, wherein the recorded audio segments corresponds to a communication amongst one or more



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participants concerning an equity issue (col.8 lines 64-col.9 line 57 and col.18 lines 36-67).

Regarding claim 9, Logan teaches the method of claim 1, wherein the recorded audio segments corresponds to a communication amongst one or more participants concerning traffic(col.18 lines 36-67 and col.28 lines 59-67).

Regarding claim 10, Logan teaches the method of claim 1, wherein the predetermined order for playback is chronological order(col.13 line 55-col.14 line 41 and col.28 lines 54-58).

Regarding claim 11, Logan teaches the method of claim 1, wherein the predetermined order for playback is reverse chronological order(col.13 line 55-col.14 line 41 and col.28 lines 16-58).

Regarding claim 12, Logan teaches the method of claim 1, wherein a playback flag is associated with one or more of the recorded audio segments in the queue and wherein the playing in the predetermined order comprises only playing those recorded audio segments with an associated playback flag(col.12 line 16-col.14 line 52).

Regarding claim 13, Logan teaches the method of claim 1, further comprising the computer system removing one or more recorded audio segments from the queue according to one or more criteria(217 Fig.2 and col.41 lines 8-23)

Regarding claim 14, Logan teaches the method of claim 13, wherein the one or more criteria include a predetermined amount of time such that recorded



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audio segments recorded more than the predetermined amount of time earlier are removed(217 Fig.2 and col.41 lines 8-43).

Regarding claim 15, Logan teaches the method of claim 13, wherein the one or more criteria include a predetermined amount of playback time such that if the playback time of the queue exceeds the predetermined amount of time earlier recorded messages are removed to shorten the playback time to the predetermined amount(217 Fig.2, col.41 lines 8-43, and col.37 lines 7-14).

Regarding claim 16, Logan teaches the apparatus for serializing an asynchronous communication, the apparatus comprising:  
means for storing a plurality of recorded audio segments;  
telephone interface means; and for each of the plurality telephone interfaces means for playing recorded audio segments in a predetermined order (Fig.1, col.6 lines 10-26 and col.10 lines 6-67);  
means for maintaining a current position in the queue responsive to the playing using the computer system(Fig.1, label 235 Fig.3 and col.11 lines 3-25),  
means for supporting receipt of a request to record an audio segment for inclusion in the asynchronous communication using the computer system, and  
means for responsive to the request recording the audio segment, adding the audio segment to the queue, and resuming the playing at the current position(Fig.1, labels 235, 267, and 285 of Fig.3 and col.12 lines 16-54).

Regarding claim 17, Logan teaches the apparatus of claim 16, wherein the means for playing recorded audio segments comprises means for playing both recorded audio segments and streaming audio segments, the streaming audio



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segments corresponding to audio still being recorded (col.31 lines 51-67 and col.12 lines 24-67).

Regarding claim 18, Logan teaches the apparatus of claim 16, wherein the apparatus used to provide a phone chat service (col.9 lines 1-60).

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Joseph T Phan whose telephone number is 703-305-3206. The examiner can normally be reached on M-TH 9:30-6:30, in every other Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Fan Tsang can be reached on 703-305-4895. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-9600.

JTP  
January 23, 2004

ITA

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